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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/569,769

11/13/2006

Dirk Dobrindt

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1333 7590 07/21/2009
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EXAMINER

MCCLAIN, GERALD

ART UNIT

PAPER NUMBER

3653

MAIL DATE

DELIVERY MODE

07/21/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/569,769	Applicant(s) DOBRINDT, DIRK	
	Examiner GERALD W. MCCLAIN	Art Unit 3653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The amendment filed 11 May 2009 has been entered.

Response to Amendment

The declaration under 37 CFR 1.132 filed 11 May 2009 is sufficient to overcome the rejection of claims 1-10 based upon Dobrindt (US 2004/0256797).

Claim Objections

The claims are objected to because they do not conform with 37 CFR 1.75 (i). Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation.

Claims 1-10 are objected to because of the following informalities: all the "intermediate transport transport [sic] member[s]" (see Claim 1, line 9, etc) should be "intermediate transport member[s]". Appropriate correction is required.

Claim Rejections - 35 USC § 112

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 7 and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In Claim 7, line 2-3, it is unclear if the at least one cam plate is one of the at least one cam plate recited in Claim 5.

In Claim 9, line 1, it is unclear to which intermediate transport member(s) are being referred.

Claim Rejections - 35 USC § 102

Claims 1-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Scarlata et al. (US 5,518,230) ("Scarlata").

Claim 1: [a] sheet to be deposited is grasped by at least one rotationally drivable sheet conveyor member with said front edge of said sheet fed into a receptacle, and to deposit said sheet on said stack of sheets, said sheet's front edge is released from a receptacle, through use of a stop, by a stack edge, characterized by releasing said sheet's front edge from said receptacle of said rotating sheet conveyor member, prior to said depositing of said sheet onto said stack, and moving said sheet's front edge into a receptacle of an intermediate transport member where it is further released for depositing said sheet onto said stack of sheets (FIG. 3);

Claims 2, 4: at least one rotationally drivable sheet conveyor member with at least one receptacle (21); intermediate transport member with a receptacle (108);

Claims 3: stop (106);

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Claim 5: at least one cam plate (120);

Claim 6: lever assembly (118/119/125);

Claim 7: at least one lever arm of said lever assembly (125); at least one cam plate (120); intermediate element (elements on end of 125);

Claim 8: essentially horizontally oriented level arm (119); essentially vertically oriented level arm (118); separate cam plate (back support elements on vertical bar of 106/108/116);

Claim 9: spring-fitted (117);

Claim 10: gripper mouth (108).

Response to Arguments

Applicant's arguments filed 11 May 2009 have been fully considered but they are not persuasive.

[1] Referring to the description of Figure 3 in Scarlata it is clear that Scarlata describes a stack height clamp 108 (column 6, line 32ff). [2] Additionally the element in Scarlata that the Examiner used to reject Claim 3: (106) is not a stop for the sheets but a flag, which is attached to clamp 108... (column 6, line 34ff). [3] Finally the element 108 in Scarlata that the Examiner used to reject Claim 10 (108) is not a gripper mouth but a stack height clamp (column 6, line 7ff).

Our 797 application describes a lateral offsetting movement by a roll drive element 16 additionally to the transport by the stacking wheel. The paper is not released from the wheel during the lateral offset movement. [4] In Scarlata (0020 line 13ff) Scarlata describes that the sheet is transported up to the stop bar 14, which is not the case in our application. [5] The lateral movement happens when the substrate is already close to the stop bar (0021, lines 15ff). The roll drive is not at all used for transport in the rotating direction of the stacking wheel but could be used just opposite as breaking element for the further transport of the sheet like element (0009, lines 5ff).

In our application the movement of the gripper mouth is in the same direction as the stacking wheel and not lateral to it. See page 5, lines 6-7 of the present application.

Re. [1], Applicant did not argue how structure 108 does not anticipate Claim 1.

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Re. [2], Claim 3 recites that a stop is movable by the intermediate transport member. Structure 108 does move structure 106 (stop).

Re. [3], structure 108 is a gripper mouth with infinite radius that holds sheets 110.

Re. [4], there is no stop bar 14.

Re. [5], lateral movement or a stacking wheel are not claimed.

Conclusion

Applicant's amendment (intermediate transport transport [sic] member[s]) necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GERALD W. MCCLAIN whose telephone number is

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(571)272-7803. The examiner can normally be reached on Monday through Friday from 7:30 a.m. to 4:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick H. Mackey can be reached on (571) 272-6916. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Gerald W. McClain
Examiner
Art Unit 3653

/Patrick H. Mackey/
Supervisory Patent Examiner, Art
Unit 3653